

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION,  Plaintiff-Applicant,  v.  BERNARD L. MADOFF INVESTMENT SECURITIES LLC,  Defendant.	NO. 08-01789 (SMB)  SIPA LIQUIDATION  (Substantively Consolidated)
In re:  BERNARD L. MADOFF,  Debtor.	Adv. Pro. No. 09-1161 (SMB)

**AMENDMENT TO FOURTH CASE MANAGEMENT REPORT**

WHEREAS, the operative complaint in this proceeding is the Fourth Amended Complaint filed on March 17, 2014, naming as defendants Federico Ceretti, Carlo Grosso, Kingate Global Fund, Ltd., Kingate Euro Fund, Ltd., Kingate Management Limited, FIM Advisers LLP, FIM Limited, Citi Hedge Fund Services Limited, First Peninsula Trustees Limited, individually and as Trustee of The Ashby Trust, The Ashby Trust, Ashby Investment Services Limited, Alpine Trustees Limited, individually and as Trustee of El Prela Trust, Port of

Hercules Trustees Limited, individually and as Trustee of El Prela Trust, El Prela Trust, El Prela Group Holding Services, Ashby Holdings Services Limited, El Prela Trading Investments Limited, and HSBC Bank Bermuda Limited. (Adv. Pro. ECF No. 100);

WHEREAS, on November 22, 2016, this Court issued its Memorandum Decision dismissing the claims against all defendants in this proceeding (“Non-Fund Defendants”), other than Kingate Global Fund, Ltd. and Kingate Euro Fund, Ltd. (Main ECF No. 14495);

WHEREAS, on March 9, 2017, this Court so ordered the Stipulated Final Order Granting Motion to Dismiss the Ninth Count of the Fourth Amended Complaint as against the Non-Fund Defendants, which was a final order and judgment for purposes of appeal. (Adv. Pro. ECF No. 281);

WHEREAS, the litigation continued as against Kingate Global Fund, Ltd. and Kingate Euro Fund, Ltd. (together, the “Kingate Funds”) and pursuant to Federal Rules of Civil Procedure 16 and 26, as incorporated into Federal Rules of Bankruptcy 7016 and 7026, Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-*lll*, and the substantively consolidated estate of Bernard L. Madoff, and the Kingate Funds previously stipulated to the initial Case Management Report entered by this Court (Adv. Pro. ECF No. 227) and certain amendments thereto (Adv. Pro. ECF Nos. 284, 314, 349, 401), including the operative, so ordered Fourth Amendment to Case Management Report (“Fourth CMR”). (Adv. Pro. ECF No. 401);

WHEREAS, on February 25, 2019, the Second Circuit issued its opinion (“Opinion”) vacating this Court’s November 22, 2016 Judgment and remanding to this Court for further

proceedings consistent with the Opinion. *See In re Picard*, No. 17-2992(L), Main ECF Nos. 1312, 1317 (2d Cir. Feb. 25, 2019) (“Second Circuit Decision”);

WHEREAS, the time within which the Non-Fund Defendants may pursue their rights with respect to the Opinion under applicable Federal Rules of Appellate Procedure, including Rules 40 and 41, have not as yet expired;

WHEREAS, under the Fourth CMR, fact discovery is still open but closes on February 28, 2019;

WHEREAS, in light of the uncertainty regarding the position of the Non-Fund Defendants concerning the Opinion, and the Trustee’s desire to proceed with discovery of all defendants without prejudice to the rights of any party, the Trustee requested that the Kingate Funds agree to amend the Fourth Amended Case Management Report and schedule case management dates agreeable to all parties in this proceeding; and

WHEREAS, given the exigent circumstances with fact discovery under the Fourth CMR scheduled to expire on February 28, 2019, counsel for the Kingate Funds and the Trustee have conferred and agreed to a short-term resolution that will provide additional time to confer.

NOW THEREFORE, it is hereby stipulated and agreed by and between the parties through their respective undersigned counsel, that:

- (a) The February 28, 2019 deadline to close fact discovery, as set in paragraph 6(d) of the Fourth CMR, shall be extended to March 29, 2019;
- (b) No new discovery shall be initiated by the Trustee or the Kingate Funds from February 28, 2019 through and including March 29, 2019;
- (c) The February 28, 2019 deadline for responding to contention interrogatories, as set in paragraph 6(b)(3)(c) of the Fourth CMR, shall be extended to April 30, 2019;

(d) The April 1, 2019 deadline for serving requests for admission, as set in paragraph 6(c) of the Fourth CMR, shall be extended to May 31, 2019;

(e) All other discovery and further deadlines provided for in the Fourth CMR shall remain unchanged, subject to any further extensions as agreed by the Trustee and the Kingate Funds or ordered by the Court; and

(f) The extension of fact discovery will not impact the dates of the currently scheduled mediation.

Dated: February 27, 2019  
New York, New York

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So Ordered this 27<sup>th</sup> day of February, 2019.

/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE